

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 12, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No: 97OD-281

OAHU

Amend Prior Board Action of April 12, 1996, Item D-17, Set Aside to the City and County of Honolulu, Board of Water Supply by Governor's Executive Order for a Water Tunnel and Protective Zone Together With a Waterline Easement at Waiomao, Palolo Valley, Honolulu, Oahu, Tax Map Key: (1) 3-4-22:portion of 001

BACKGROUND:

On April 12, 1996, item D-17 (Exhibit A) the Board recommended approval for a Governor's executive order to set aside land that included a water tunnel and protective zone together with an easement for a waterline.

The 1996 approval included the water tunnel, and protective zone measuring one thousand (1,000) feet on both sides of the centerline of the tunnel as well as the water line which were originally constructed in the early 1920's without prior dispositions from the Territory of Hawaii.

REMARKS:

The 1996 action was not finalized and the request was most likely overlooked. Staff intends to revise the prior approval before concluding the request.

The subject area is located within the Honolulu Watershed Forest Reserve under Governor's Proclamation dated October 13, 1913.

Staff understands that if the 1996 approval is to proceed, the requested area needs to be withdrawn from the forest reserve which involves more time and cost. Further, the proposed protective zone measuring one thousand (1,000) feet from both sides from the centerline of the tunnel is excessive as viewed by the Division of Forestry and Wildlife (DOFAW). DOFAW would like to retain the area in their forest reserve inventory.


To accommodate the request, staff believes the land disposition should be changed to a non-exclusive easement in which DOFAW and the Board of Water Supply (BWS) can separately manage their own resources and improvements without conflict. Staff has checked with BWS and understands that the widest portion of the tunnel is about ten (10) feet. Such figure will be used to determine the easement area. DOFAW and BWS have no objections to the proposed amendment.

RECOMMENDATION:

That the Board amend its prior action of April 12, 1996, item D-17, by replacing Section A of the "RECOMMENDATION" section by the following:

- "A. Authorize the issuance of a perpetual, non-exclusive easement to the Board of Water Supply covering the subject area for waterline purposes, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State."

Respectfully Submitted,



Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thiele, Chairperson



State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 12, 1996

Board of Land and
Natural Resources
Honolulu, Hawaii

SUBJECT: Set Aside to the City and County of Honolulu, Board of
Water Supply by Governor's Executive Order for a Water
Tunnel and Protective Zone Together with a Waterline
Easement at Waiomao, Palolo Valley, Honolulu, Oahu, TMK: 3-
4-22:01 (por)

STATUTE: Section 171-11, Hawaii Revised Statutes, as amended.

APPLICANT: City and County of Honolulu, Board of Water Supply

FOR: Set aside by Governor's Executive Order for a water tunnel
and protective zone at Waiomao, Palolo Valley, Honolulu,
Oahu, further identified as a portion of Tax Map Key: 1st/3-
4-22:01, as shown outlined in red on the attached map
labeled Land Board Exhibit "A", together with a waterline
easement outlined in yellow on the attached map labeled Land
Board Exhibit "A".

LAND TITLE

STATUS: Subsection 5 (b) land of the Hawaii Admissions Act, ceded
land.

STATUS: Honolulu Forest Reserve under Governor's Proclamation dated
October 13, 1913.

ZONING: State Land Use Commission: Conservation
City and County of Honolulu: P-1

LAND AREA:

Easement for an eight-inch water pipeline: 78,266 sq.ft.

Set aside by Governor's Executive Order for a water tunnel
and protective zone: 50.5 acres.

Areas are subject to final determination by the State Survey
Office, Department of Accounting and General Services.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
APR 12 1996

EXHIBIT "A"

CHARACTER

- OF USE:
- A. Eight-inch water pipeline easement: Right, privilege and authority to access, construct, use, repair and maintain a eight-inch water line over, under and across State-owned lands.
 - B. Governor's Set Aside for water tunnel and protective zone: Construction, maintenance and management of a water tunnel with auxiliary water facility improvements including a protective zone.

RENTAL: A. Gratis

COMMENCEMENT

DATE: A. To be determined by the Chairperson

CDDA

REQUIREMENTS:

Land Board approved the Conservation District Use Permit on August 25, 1995 under agenda Item H-5 for the pipeline easement area. The entire pipeline needs to be replaced due to the deteriorated condition of the pipe. The area to fall under the Governor's Executive Order for a water tunnel and protective zone comprises a water tunnel which was managed by Honolulu Water Works during the early 1920's and accordingly is considered as a "non-conforming use" by the Branch of Conservation and environmental affairs. The water tunnel section was not included in the Conservation District Use Permit as there is to be no construction or landscaping work of any nature to be done in the area.

REMARKS: The Board of Water Supply, City and County of Honolulu is requesting legal land dispositions on both areas as both the water tunnel and the original eight-inch pipeline were originally constructed in the early 1920's and dispositions were never obtained from the Territory.

The eight inch pipeline has broken down continually in the past twenty years and the corrosive condition of the pipes has required the Board of Water Supply to replace the line. The water tunnel runs from the ridge of Kaau Crater to the bottom of Waiomao Gulch. The water line runs from the water tunnel and traverses along Waiomao gulch and will be installed in a parallel alignment to the existing pipeline along steep and narrow trails, across ravines, up and down gullies and across streams to the Waiomao Road chlorination station and eventually to the Wilhelmina Rise 811 Storage Reservoir.

RECOMMENDATION:

That the Board:

- A. Recommend to the Governor the issuance of an Executive Order setting aside the subject land together with a waterline easement to the Board of Water Supply, City and County of Honolulu under the above-listed terms and conditions which are by this reference incorporated herein and in addition to the following terms and conditions:
1. Disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority of both, in any regular or special session next following the date of the set aside.
 2. In the event the lands set aside are not being utilized or required for the public purposes stated for a continuous period of one year or more: (a) The Board of Water Supply, City and County of Honolulu shall within a reasonable time restore the premises to a condition satisfactory to the Department of Land and Natural Resources; and (b) The Governor's Executive Order setting aside the lands shall be withdrawn and the lands returned to the management and control of the Department of Land and Natural Resources, free of all liens and other encumbrances.
 3. Review and approval of the set aside documents by the Attorney General's Office.
 4. Other terms and conditions as may be prescribed by the Chairperson.
- B. Authorize the issuance of an immediate construction right-of-entry to the Board of Water Supply to the above described, subject area, subject to the following terms and conditions:
1. The Board of Water Supply, City and County of Honolulu, shall indemnify and hold harmless the State of Hawaii, its officers, employees, and agents harmless against all claims for personal injury, death, or property damage caused by or in any way connected with the permission granted herein.
 2. The Board of Water Supply, City and County of Honolulu, shall comply with all applicable terms and conditions of the Conservation District Use Permit for the subject project approved by the Board on August 25, 1995 under agenda Item H-5.
 3. The applicant shall be responsible for cleaning and/or restoring the area to its original condition or to a condition satisfactory to the Department of Land and Natural Resources upon completion of the construction.
 4. The applicant shall comply with all applicable

rules, regulations, ordinances and statutes of the Federal, State and County governments relative to the use of the subject area, including those relating to public health and safety.

5. In the event any unanticipated sites or remains of historic or prehistoric interest such as shell, bone or charcoal deposits, human burials, rock or coral alignments, paving or walls are encountered during construction, the Board of Water Supply, its consultants and/or contractors shall stop work immediately and contact the State Historic Preservation Division in Honolulu at (808) 587-0047.
6. The Department of Land and Natural Resources and its Chairperson reserves the right to impose additional terms and conditions if necessary.

Respectfully submitted,

Cecil B. Santos
Cecil B. Santos
Oahu District Land Agent

APPROVED FOR SUBMITTAL:

Michael D. Wilson
for MICHAEL D. WILSON, Chairperson

